

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS (CORPUS CHRISTI)

UNITED STATES OF AMERICA, .
 . Case No. 2:21-cr-01079-1
Plaintiff, .
 .
v. .
 .
HAYDEN MICHAEL ESPINOSA, . 1133 N. Shoreline Blvd.
 . Corpus Christi, TX 78401
Defendant. .
 . Tuesday, December 14, 2021
 . 10:43 a.m.
.

TRANSCRIPT OF PRELIMINARY AND DETENTION HEARING
BEFORE THE HONORABLE JASON LIBBY
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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I N D E X
12/14/21

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
<u>FOR THE GOVERNMENT:</u>				
Oscar Guardado	4	7	13	14



1 (Proceedings commence at 10:43 a.m.)

2 THE CLERK: Court calls 2:21-mj-1455-1, U.S.A. v.
3 Hayden Michael Espinosa. May I have appearances, please?

4 MS. SMITH: Good morning. Molly Smith for the
5 United States.

6 MS. GARZA: Good morning, Your Honor. Lila Garza
7 for Mr. Espinosa.

8 THE COURT: Good morning. Ms. Garza, first of all,
9 does your client consent to having this morning's hearing by
10 video?

11 MS. GARZA: Yes, Your Honor.

12 THE COURT: All right. Thank you. So we're set
13 for a preliminary hearing and a detention hearing. What's
14 your announcement, please?

15 MS. GARZA: Your Honor, Mr. Espinosa would like to
16 go forward with the preliminary hearing.

17 THE COURT: All right. What we are going to do
18 then is turn to our prosecutor, Ms. Smith. And I'm ready
19 for evidence or testimony that you would like to present on
20 the issue of probable cause. Over to you.

21 MS. SMITH: Your Honor, the Government would call
22 Special Agent Oscar Guardado. He should be available on
23 Zoom right now.

24 THE COURT: Okay. I believe I see Agent Guardado.
25 You could switch on your camera and your microphone, please.



1 MR. GUARDADO: Can you hear me?

2 THE COURT: There you are. I can hear you and see
3 you.

4 Good morning, sir. Could you please raise your
5 right hand and I'll swear you in?

6 OSCAR GUARDADO, GOVERNMENT'S WITNESS, SWORN

7 THE COURT: All right. Thank you. You can lower
8 your hand.

9 What's your true and correct name, sir?

10 THE WITNESS: My name's Oscar Guardado. I'm a
11 special agent with ATF.

12 THE COURT: All right. Are you employed by the ATF
13 here in Corpus Christi or somewhere else?

14 THE WITNESS: In Corpus Christi, Your Honor.

15 THE COURT: All right. Thank you.

16 Ms. Smith, over to you.

17 MS. SMITH: Thank you, Your Honor.

18 DIRECT EXAMINATION

19 BY MS. SMITH:

20 Q Good morning, Agent. How are you?

21 A Good morning. Good.

22 Q Can you tell the Court where you work?

23 A So I work in the Corpus Christi field office for ATF
24 here in Corpus.

25 Q As a special agent?



1 A Yes, ma'am.

2 Q And how long have you been a special agent for ATF?

3 A I've been with ATF for approximately just over two
4 years.

5 Q Are you aware of the facts and circumstances surrounding
6 the case of Hayden Michael Espinosa?

7 A Yes, I do.

8 Q And how are you aware of these facts?

9 A So we've been conducting an investigation into the
10 manufacturing and possession of firearms, in violation of
11 the National Firearms Act.

12 Q I'm sorry, Agent. Just to briefly interrupt here. Are
13 you the case agent in this matter?

14 A Correct. Correct.

15 Q So you reviewed all -- you reviewed all the materials
16 involved in this matter, correct, in your knowledge of the
17 case?

18 A Correct.

19 Q So could you please tell the Court about your
20 investigation regarding this matter that was charged?

21 A Yes. So we've been conducting an investigation into the
22 manufacturing and possession of firearms, in violation of
23 the National Firearms Act, and also the selling of firearms
24 in violation of the Gun Control Act. Mr. Espinosa was found
25 to be -- during the investigation, we found that



1 Mr. Espinosa was in possession of a -- an item which is
2 classified as a machine gun. There's two types of items
3 that we were looking at. The first one is a Glock switch,
4 which can be installed on a Glock-style pistol, and there --
5 and turning it into a machine gun. And the second item was
6 an AR Lightning Link, which when installed into an AR-style
7 rifle, it can turn that into a machine gun. And by
8 definition, both of those devices are classified as machine
9 guns in the National Firearms Act.

10 During the investigation --

11 Q And -- I'm sorry. What led you to -- you said that he
12 had in his possession these firearms?

13 A Correct. So we filed a criminal complaint during the
14 investigation where we intercepted several of these items.
15 During surveillance, we saw Mr. Espinosa dropping off
16 packages to a postal mailbox, in one of those blue boxes, at
17 a business location here in Corpus Christi. And we -- the
18 United States postal inspectors obtained a warrant for those
19 packages. And when those packages were opened, we found
20 multiple items in there matching the descriptions of the
21 Glock switch and the firearm -- AR Lightning.

22 Based on that, we wrote a criminal complaint, and we
23 continued doing surveillance until we were able to get a
24 search warrant.

25 Q And during your investigation, were you able to obtain



1 any information regarding Mr. Espinosa's registration status
2 with the National Firearms Registration and Transfer
3 Records?

4 A Correct. Well, we -- we did a query on Mr. Espinosa,
5 and we found that he did not have any firearms registered to
6 his name.

7 MS. SMITH: Your Honor, I have no further questions
8 at this time. I pass the witness. Thank you.

9 THE COURT: All right. Questions, Ms. Garza?

10 MS. GARZA: Yes, Your Honor.

11 CROSS-EXAMINATION

12 BY MS. GARZA:

13 Q Agent Guardado, how did you come to find out that this
14 -- that these boxes for the Glock switch and Lightning Link
15 even existed?

16 A So we -- during the investigation -- this investigation
17 was actually started in Knoxville, Tennessee. And there was
18 two undercover purchases that were done, one of which the
19 undercover received a package that was similar to the ones
20 Mr. Espinosa put in the mail. There was small packages.
21 And once that agent received those, you know, he -- you
22 know, obviously he opened them, and we found that he
23 received several of these AR Lightning Links and Glock
24 switches.

25 Q So this investigation extends to another jurisdiction?



1 A Well, it started in Knoxville, but then we found that
2 Mr. Espinosa was living in Knoxville, Tennessee -- in the
3 Knoxville, Tennessee area. But then we found that he moved
4 to Corpus Christi, and that's when it was referred to us.

5 Q But how did anyone know what was in the packages?

6 A So another -- it was just based on the fact that, like I
7 said, he mailed one -- a similar package to one of the
8 agents, and he had also been posting -- he has a website
9 when -- where he's selling these items, and he's mailing
10 them.

11 Q But none of that is included in the complaint, is it?

12 A In the criminal complaint, no, because the criminal
13 complaint is for a possession of the actual items.

14 Q Well, right, but I don't understand how you even know
15 that there were Glock switches and Lightning Links in any
16 packages. Were the packages opened?

17 A Yes. Correct. They were opened. The United States
18 postal inspectors obtained a warrant for those packages.

19 Q Where?

20 A Here in Corpus Christi.

21 Q How did you know to get a warrant for those packages?

22 A Well, it was based on our investigation that he was
23 producing them and selling them, and he -- and he -- we
24 thought that he was mailing them out. That's -- that's what
25 he was doing.



1 Q But how did you know that those packages didn't contain
2 something else?

3 MS. SMITH: Objection, Your Honor. At this time, I
4 believe that line of inquiry goes into the information that
5 would be contained in a federal search warrant, to which the
6 Court had found probable cause to open up the packages.

7 MS. GARZA: So I would like --

8 THE COURT: Wait.

9 MS. GARZA: Well, I would like to --

10 THE COURT: Ms. Garza -- Ms. Garza, let me get the
11 entire objection.

12 MS. GARZA: Yes, Your Honor.

13 THE COURT: And then you can respond.

14 MS. GARZA: Okay. Yes, Your Honor.

15 THE COURT: Ms. Smith.

16 MS. SMITH: That was all, Your Honor. And I would
17 submit that continued inquiry into the content of the search
18 warrant at this time, to which the Court had already found
19 probable cause, would be improper for this hearing.

20 THE COURT: All right. Ms. Garza, your response?

21 MS. GARZA: Your Honor, we have no access to that
22 warrant at this point in the case. So I'm trying to find
23 out, you know, what's the basis of the -- of the probable
24 cause.

25 THE COURT: All right. The --



1 MS. GARZA: And so that's my line of questioning.

2 THE COURT: Okay. I understand the line of
3 questioning. The -- what we're looking for here is whether
4 there's probable cause to believe that the Defendant
5 knowingly possessed a firearm that was not registered to him
6 in the registry. And so the basis for the warrant, I don't
7 think really goes to that all that much. I just am
8 interested in knowing whether he knowingly possessed a
9 firearm that was not registered to him in the registry. So
10 let's focus our questions on that.

11 So go ahead and you can resume your questions.

12 BY MS. GARZA:

13 Q The boxes that were -- that there was -- there was
14 surveillance conducted of Mr. Espinosa. When did that
15 surveillance begin here in Corpus Christi?

16 A The -- it -- this started early November we've been --
17 we started doing surveillance on him to identify whether or
18 not he was in Corpus.

19 Q Okay.

20 A At that point, we suspected he had, but we -- we
21 verified it by conducting surveillance at another address
22 that he had here in Corpus.

23 Q The boxes that we're talking about with the Lightning
24 Link and the Glock switch, can you describe them?

25 A So those were -- they weren't boxes, they were actually



1 small vanilla -- manila envelopes. I believe they were,
2 like, a three-by-six star envelope. And they had -- with a
3 U.S. Postal Service tag on them.

4 Q And were they addressed to Mr. Espinosa?

5 A No. So these were packages that Mr. Espinosa was
6 sending out, and they were addressed to different
7 individuals outside of Corpus.

8 Q How did these packages get delivered to where Mr.
9 Espinosa was residing?

10 A No. So he was -- he was mailing them out. He was the
11 one mailing the devices.

12 Q All right. So you said that you -- in the complaint,
13 you said that you were conducting surveillance on him, and
14 he was exiting his residence with small brown packages,
15 correct?

16 A Correct.

17 Q Okay. And was his name on the -- so he never received
18 anything from -- you never saw him go to a post office and
19 obtain the packages?

20 A No. So we're alleging that he's manufacturing them
21 and -- and selling them and putting them in the mail to be
22 delivered.

23 Q Okay. So then, were the -- was his name on -- anywhere
24 located on the packages?

25 A So the packages that we seized have a unique accounting



1 code on them that the United States postal inspectors are
2 able to identify as registered under an account by
3 Mr. Hayden Espinosa with the U.S. Postal Service.

4 Q Okay. And the -- so, I'm sorry. Can you repeat that
5 again? It has an accounting code?

6 A Yeah. So the -- there was no return address on the
7 packages --

8 Q Okay.

9 A -- but there's an -- there was an account number on
10 them. And in the four packages we intercepted, the
11 accounting number on them comes back to an account with the
12 U.S. Postal Service that's listed under Mr. Hayden
13 Espinosa --

14 Q Okay.

15 A -- as belonging to him.

16 Q Okay. And then you said that he took -- that you --
17 during the surveillance, you said that you saw him go to a
18 facility to put them in the mail?

19 A Well, so it's not a facility. It's one of the -- those
20 blue United States Postal Service boxes in front of --

21 Q Okay.

22 A -- you know, they put them in neighborhoods. And we saw
23 him approach one of those and put those items in the box.

24 Q Okay. And did those packages appear to be opened?

25 A No.



1 Q Okay. So the ATF or the postal service was -- were the
2 first people to open up the packages?

3 A Correct.

4 Q And do you know where these -- was there an address
5 of -- where it was going to be mailed to?

6 A So there was four different mailing addresses listed
7 for -- they were going for -- so I believe one was going to
8 New York; one, San Antonio; one, I believe, was going to
9 Waco; and I can't recall the fourth one right now
10 (indiscernible).

11 MS. GARZA: No further questions.

12 THE COURT: Ms. Smith.

13 MS. SMITH: Your Honor, just very briefly. I just
14 wanted to clarify one paragraph that was listed in the
15 complaint with the agent.

16 REDIRECT EXAMINATION

17 BY MS. SMITH:

18 Q Agent, specifically looking at Paragraph 8 of the
19 complaint where it says, "Agents examined the suspected AR
20 Lightning Links and Glock switches and observed that the
21 items lacked a serial number and appeared to have been built
22 using a 3D laser printer," could you just explain to the
23 Court what that means?

24 A So what that means -- so, obviously, there's no serial
25 number on these. These are manufactured at home. So we --



1 that's what we suspected Mr. Espinosa was doing. So, you
2 know, what happens is, people have a file and a computer and
3 they, you know, they print it out through a 3D printer. So
4 we took those and then we send them off to -- well, we send
5 them off, but we initially got confirmation via email,
6 because we took photos of them. And we identified that they
7 were, indeed, the parts to make -- to convert an AR pistol
8 and -- I mean, I'm sorry, an AR pistol -- an AR rifle and
9 pistol into a machine gun.

10 MS. SMITH: No further questions at this time.
11 Thank you, Your Honor. I pass the witness.

12 THE COURT: Ms. Garza, any other questions?

13 MS. GARZA: Yes, Your Honor.

14 THE COURT: Okay.

15 RECCROSS-EXAMINATION

16 BY MS. GARZA:

17 Q So there was a 3D printer that was found at that
18 residence?

19 A Correct.

20 Q And, I'm sorry, I didn't understand what you were trying
21 to explain to the Government about an email. Can you repeat
22 that?

23 A Yes. So the process to confirm that these are machine
24 guns or machine gun parts is we have to send them off --
25 send them off to our firearms technology branch. However,



1 we did send out an email with photos of the items, and the
2 initial -- the preliminary determination is that they are
3 machine gun parts. And, of course, the second part of that
4 is to send them off to make sure that the tests -- for them
5 to do a test-fire on them to make sure that they're working
6 parts.

7 Q So that test-fire was done. And how was that done? Are
8 they attached to pistols --

9 A So --

10 Q -- to see if they can make them function as intended?

11 A Correct.

12 Q And there was a report generated from that test-fire?

13 MS. SMITH: Objection, Your Honor. Outside the
14 scope of the hearing at this time.

15 THE COURT: Actually, I don't think it is outside
16 the scope. So I'm going to allow that question. Go ahead.

17 MS. SMITH: Thank you, Your Honor.

18 THE COURT: You can answer.

19 THE WITNESS: So they're -- right now, they're
20 currently in the process of testing the ones we sent out
21 from those packages. However, I would like to add that the
22 ones that were initially received by the purchase, which are
23 very similar to those -- almost identical, they have been
24 tested. And they have been found to be machine gun parts.

25 BY MS. GARZA:



1 Q Okay. And the 3D printer, is that still in the
2 Government's custody?

3 A Correct.

4 Q Okay. And have there been any kind of -- I don't know,
5 some extraction or anything to determine whether or not that
6 3D printer actually printed out those items?

7 THE COURT: Okay. Actually, I'm going to stop you
8 there because I think that actually is beyond the scope of
9 the hearing. The question here is whether he possessed a
10 firearm that wasn't registered to him. And so, the
11 manufacturing process is beyond.

12 So don't answer that question, but you can go on.
13 Do you have any other questions, Ms. Garza?

14 MS. GARZA: No, Your Honor. Pass the witness.

15 THE COURT: Okay. I have a couple of questions for
16 you, Agent Guardado. So just to recap, are you telling me
17 that the Defendant was observed placing the packages into,
18 essentially, a mailbox somewhere?

19 THE WITNESS: Correct.

20 THE COURT: All right. And then, how much time
21 elapsed between when he was observed doing that and when
22 agents went and got the packages out of the mailbox?

23 THE WITNESS: It must have been less than 30
24 minutes, Your Honor, but I stood in front of that mailbox in
25 my vehicle watching it as -- while we waited for the postal



1 inspector.

2 THE COURT: All right. And when the boxes were
3 extracted out of the mailbox, they had the label with
4 Mr. Espinosa's account number on the label -- all four of
5 them?

6 THE WITNESS: Correct.

7 THE COURT: Tell me what you mean, this -- the
8 Glock switch and the Lightning Link, how is it that these
9 things are firearms? They sound like parts to me. How is
10 it that they're firearms?

11 THE WITNESS: So by definition in the National
12 Firearms Act, Your Honor, machine gun parts are classified
13 as machine guns. It's -- it's just -- it's the definition
14 of it.

15 THE COURT: Okay. And that's there in the statute
16 somewhere?

17 THE WITNESS: Correct.

18 THE COURT: All right. And how did you determine
19 whether those firearm parts were not registered to
20 Mr. Espinosa in the firearms record system?

21 THE WITNESS: So the only way they can be
22 registered is by them having a serial number, Your Honor.
23 And none of these have serial numbers on them.

24 THE COURT: Okay. And because they didn't have
25 serial numbers, are you telling me that, therefore, they



1 aren't registered, and so they aren't registered to him?

2 THE WITNESS: Correct. Because we did a query on
3 him alone -- on his name, and there was no registrations --

4 THE COURT: Okay. So nothing is registered --

5 THE WITNESS: under his name.

6 THE COURT: -- to him in the registry?

7 THE WITNESS: Correct.

8 THE COURT: Okay. All right. So, Ms. Smith, do
9 you have any questions based on my questions?

10 MS. SMITH: No, Your Honor. I think that has
11 clarified everything. Thank you.

12 THE COURT: Okay. Ms. Garza, do you have any
13 questions based on my questions?

14 MS. GARZA: No, Your Honor.

15 THE COURT: Okay. Thank you.

16 Agent Guardado, we appreciate your testimony this
17 morning. Thank you for being with us. You're welcome to
18 stay and watch the rest, if you like.

19 THE WITNESS: Thank you.

20 (Witness excused)

21 THE COURT: All right. Ms. Smith, what other
22 evidence or testimony would you like to present?

23 MS. SMITH: None, Your Honor. Thank you.

24 THE COURT: Okay. Thank you. We'll come back to
25 you for argument in just a moment.



1 Ms. Garza, do you have any evidence or testimony
2 that you'd like to present?

3 MS. GARZA: No, Your Honor.

4 THE COURT: Okay. Thank you. All right. We'll
5 come back to you, Ms. Smith, now for argument. Go ahead.

6 MS. SMITH: Thank you, Your Honor.

7 The Government would submit that at this time there
8 was probable cause to believe that the Defendant did possess
9 a firearm that was required to be registered under the
10 National Firearms Registration and Transfer Record, and it
11 was not registered, and it was not registered to the
12 Defendant.

13 We have heard testimony from Special Agent Guardado
14 that the Defendant was seen putting packages into a mailbox.
15 The packages appeared unaltered. And agents received the
16 packages within approximately a half an hour after he placed
17 them into the mailbox. However, Special Agent Guardado had
18 constant surveillance and there was no evidence that anyone
19 tampered with the packages during that 30-minute period.

20 Additionally, the label associated with the
21 packages was associated with the Defendant's account number
22 with the postal service. And additionally, after obtaining
23 a federal search warrant to look inside the packages, there
24 was determined to be items in there that classify as
25 firearms, that did not have a serial number, and appeared to



1 be built using a 3D laser printer, which I would submit
2 shows that not only are they not registered, but they're
3 illegally manufactured as well.

4 While not technically the charge, evidence for that
5 goes to the fact that there were firearms that were not
6 registered. And the fact that the Defendant did possess a
7 3D laser printer shows that he knowingly did possess and,
8 perhaps, manufacture the firearms himself.

9 Therefore, I would submit that based upon the
10 evidence that we heard, there is probable cause at this
11 stage to support a complaint and to bring the case to a
12 grand jury. Thank you.

13 THE COURT: Ms. Garza.

14 MS. GARZA: Your Honor, we have no argument to put
15 on.

16 THE COURT: All right. Thank you.

17 After listening to the evidence and reviewing the
18 information that's been provided to me, I find that the
19 evidence is sufficient in nature to establish that there is
20 probable cause to believe that the Defendant, Hayden Michael
21 Espinosa, charged in Case Number C-21-1455M, did possess a
22 firearm that was required to be registered in the National
23 Firearms Registration and Transfer Record, and was, in fact,
24 not registered to him. And that's -- the charge is in
25 violation of Title 26 of the United States Code, Section



1 5861(d) .

2 And Mr. Espinosa, I find that he has -- that the
3 offense has been committed; and that Mr. Espinosa committed
4 it. And accordingly, he will be held to answer in District
5 Court.

6 So that concludes our preliminary hearing for this
7 case. We'll move now to the detention hearing.

8 First of all, Ms. Smith, is the United States still
9 requesting detention in this case?

10 MS. SMITH: Yes, Your Honor. We would agree with
11 the recommendations set forth in the pretrial report
12 recommending detention.

13 THE COURT: All right. And Ms. Garza, what's your
14 announcement with regard to the detention hearing?

15 MS. GARZA: Your Honor, I would like some time to
16 investigate some of the things that are in the pretrial
17 report. So I'm asking the Court for a continuance of the
18 detention hearing.

19 THE COURT: All right. Would this Friday work?
20 Would that be enough time?

21 MS. GARZA: Yes, that would work. Yes.

22 THE COURT: And Ms. Smith, is Friday okay with you?

23 MS. SMITH: Yes, Your Honor, that works for the
24 Government. Thank you.

25 THE COURT: Okay. So here's what we'll do, we're



1 going to reset the detention hearing in this case for
2 Friday, December 17th, at 9:30 in the morning. Now, that
3 will be before United States Magistrate Judge Jason Libby.

4 Today is Tuesday, Mr. Espinosa. Your detention
5 hearing is going to be this coming Friday at 9:30 in the
6 morning before Judge Libby.

7 All right. Ms. Smith, is there anything else that
8 we need to cover at this morning's hearing?

9 MS. SMITH: No, Your Honor. Thank you.

10 THE COURT: Okay. Ms. Garza.

11 MS. GARZA: Nothing further, Your Honor.

12 THE COURT: Okay. Thank you.

13 So that will conclude our hearing. Mr. Espinosa,
14 we're going to remand you to the custody of the marshal, and
15 we'll see you at your detention hearing on Friday. Thank
16 you.

17 (Proceedings concluded at 11:07 a.m.)

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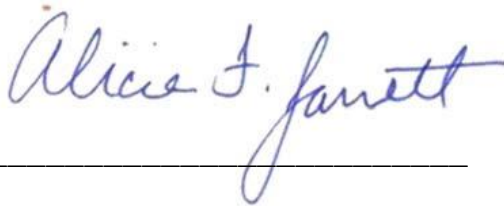
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C E R T I F I C A T I O N

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DATE: April 7, 2023

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